

**UNITED STATES OF AMERICA
BEFORE THE
NATIONAL LABOR RELATIONS BOARD**

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO,

Respondent

and

SISTERS OF CHARITY HOSPITAL OF
BUFFALO, NEW YORK, ST. JOSEPH
CAMPUS,

Charging Party

Case Nos. 03-CB-154807/03-CB-162455

**CROSS-EXCEPTIONS OF CHARGING PARTY
SISTERS OF CHARITY HOSPITAL OF BUFFALO, NEW YORK
ST. JOSEPH CAMPUS
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

NOW COMES SISTERS OF CHARITY HOSPITAL OF BUFFALO, NEW YORK, ST. JOSEPH CAMPUS (hereinafter referred to as "St. Joseph Campus," "SJC" or the "Hospital"), by and through its attorney Larry Hall of FordHarrison LLP and, pursuant to Section 102.46 of the NLRB's Rules and Regulations, Series 8, as amended, hereby files its Cross-Exceptions to the Judge's Decision.

Cross -Exception 1: Charging Party excepts to the Judge's failure to find that Kathy Kelly was an agent of the Union. (ALJD 8:12-17)

Cross -Exception 2: Charging Party excepts to the Judge's failure to find that Kathy Kelly stated that the Union was "delaying negotiations because we want to close down the city." (ALJD 7:30)

Cross -Exception 3: Charging Party excepts to the Judge's finding that "Kelly denied that she had made the statement attributed to her by Donofrio." (ALJD 7:35-36)

Cross -Exception 4: Charging Party excepts to the Judge's finding that she has "doubts about the reliability of Donofrio's testimony concerning Kelly's statement." (ALJD 8:7-8)

Cross -Exception 5: Charging Party excepts to the Judge's finding that "According to Tomasello, Kelly denied making the statement in her presence." (ALJD 8:8)

Cross -Exception 6: Charging Party excepts to the Judge's failure to take an adverse inference against the Respondent Union when it did not have Kelly testify. (ALJD 8:10-12)

Cross -Exception 7: Charging Party excepts to the Judge's finding that Kelly was not privy to the Union's negotiating strategy. (ALJD 8:12-15)

Cross -Exception 8: Charging Party excepts to the Judge's finding that there is no other evidence "corroborating" Kelly's statement. (ALJD 8:17-20)

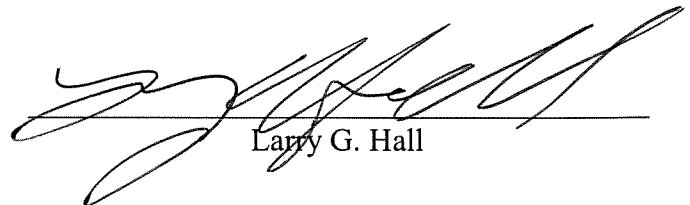
Cross -Exception 9: Charging Party excepts to the Judge's finding that Kelly's statement cannot be imputed to Respondent Union. (ALJD 8:22-23)

Cross -Exception 10: Charging Party excepts to the Judge's finding that Kelly's statement was "outside the orbit of the complaint." (ALJD 8:24)

Cross-Exception 11: Charging Party excepts to the Judge's finding that Donofrio's testimony was not reliable or relevant to the case. (ALJD 8:28-30)

Dated: August 11, 2016

Respectfully submitted,



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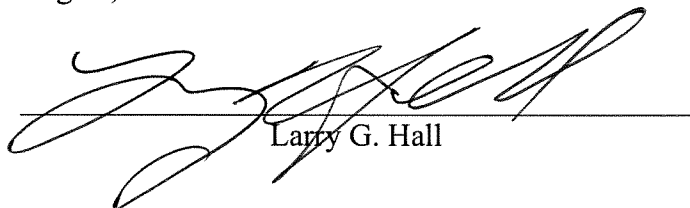
CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that that a copy of the foregoing **Cross-Exceptions of Charging Party Sisters of Charity Hospital of Buffalo, New York St. Joseph Campus to the Administrative Law Judge's** Decision was served upon the following parties:

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by email transmission to the email addresses indicated above and by enclosing a true and correct copy of same in a Federal Express envelope and shipping via Federal Express delivery to the addresses indicated above on the 11th day of August, 2016.



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